

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

UNITED STATES OF AMERICA, for the)	
use of H&E Equipment Services, Inc.)	Case No. 2:24-cv-04720-RMG
)	
Plaintiff,)	
)	
Briggs Brothers Enterprises Corporation of)	COMPLAINT
Pennsylvania, Briggs Brothers Enterprises)	
Corporation of Louisiana, Briggs Brothers)	
Enterprises Corporation of Georgia, Terry)	
Briggs, individually, and RLI Insurance)	
Company,)	
)	
Defendants.)	

The Complaint of the United States of America for the use and benefit of H&E Equipment Services, Inc. (“H&E”), by and through its undersigned counsel, against Defendants, Briggs Brothers Enterprises Corporation of Pennsylvania (“Briggs Brothers of Pennsylvania”), Briggs Brothers Enterprises Corporation of Louisiana, (“Briggs Brothers of Louisiana”), Briggs Brothers Enterprises Corporation of Georgia (“Briggs Brothers of Georgia”), Terry Briggs, individually (collectively “Briggs Defendants”) and RLI Insurance Company (“RLI” or the “Surety”), states as follows:

PARTIES, JURISDICTION AND VENUE

1. H&E Equipment Services, Plaintiff in this action, is a corporation organized and existing under the laws of the State of Delaware and authorized to conduct business in the State of South Carolina.

2. Defendant Briggs Brothers of Pennsylvania is a corporation organized and existing under the laws of the State of Pennsylvania and, upon information and belief, has its principal place of business located at 1635 Gratz Street, Philadelphia, Pennsylvania 19121.

3. Defendant Briggs Brothers of Louisiana is a corporation organized and existing under the laws of the State of Louisiana and upon information and belief, has its principal place of business located at 412 N. 4th St., Suite 336, Baton Rouge, Louisiana 70802.

4. Defendant Briggs Brothers of Georgia is a corporation organized and existing under the laws of the State of Georgia and upon information and belief, has its principal place of business at 12 Doranne Ct SE, Smyrna, Georgia, 30080.

5. Upon information and belief, Defendant Terry Briggs is a citizen of the State of Georgia and at all times relevant hereto, the president of Briggs Brothers of Pennsylvania, Briggs Brothers of Louisiana, and Briggs Brothers of Georgia.

6. Defendant RLI is a corporation organized and existing under the laws of the State of Illinois and, upon information and belief, has its principal place of business located at 9025 N. Lindbergh Drive, Peoria, Illinois 61615.

7. Jurisdiction of this action is founded on the Miller Act, Sections 3131 to 3134 of Title 40 of the United States Code Annotated (40 U.S.C.A. §§3131 to 3134) and 28 U.S.C. §§ 1331. Further, regarding those claims which are not expressly based upon the Miller Act, jurisdiction is established as such claims are so related to the Miller Act claim that they form part of the same case or controversy and arise from a common nucleus of operative facts, thus making supplemental jurisdiction proper.

8. Venue is proper in this District because the principal contract described below in Paragraph 9 between Briggs Brothers of Pennsylvania and the United States of America was to be performed and executed in the Charleston Division of the District of South Carolina. As outlined below, Briggs Defendants are so intermingled such that each of these Defendants has become the alter ego of the other and/or the operations are intertwined such the actions of these Defendants

should be regarded as those of an amalgamated or single business enterprise and injustice would result if the entities' acts are not regarded as the acts of the principals.

GENERAL ALLEGATIONS

9. The United States of America and Briggs Brothers of Pennsylvania entered into a written contract (the "Prime Contract"), by the terms of which Briggs Brothers of Pennsylvania agreed to furnish labor, materials and services for the repairs to the sewer mains at Joint Base Charleston located in Charleston, South Carolina (the "Project") in exchange for payment of an original contract price of \$3,968,183.28, being Contract Number FA441822C0024 and Project Number DKFX 1052046, Dated July 29, 2022.

10. In accordance with Section 3131 of Title 40 of the United States Code (40 U.S.C.A. §§3131), Briggs Brothers of Pennsylvania, as principal, and the Surety, as surety, on August 3, 2022 executed a standard government form of payment bond to the United States (the "Payment Bond") by the terms of which Briggs Brothers of Pennsylvania, as principal, and Surety, as surety, bound themselves jointly and severally in the sum of \$3,968,183.28, conditioned that if Briggs Brothers of Pennsylvania, as principal, shall promptly make payment to all persons supplying labor and materials in the prosecution of the work required by the Prime Contract, then the obligations of the payment bond would be void; otherwise, to remain in full force and effect. A copy of the Payment Bond is attached hereto as **Exhibit A**.

11. The Payment Bond was duly accepted by the United States and, on such acceptance, the contract for the construction and completion of the Project was awarded to Briggs Brothers of Pennsylvania.

12. Briggs Brothers of Pennsylvania, upon information and belief, has never been authorized to do business in the State of South Carolina. At the time of the Prime Contract, Briggs

Brothers of Louisiana was authorized to do business in the State of South Carolina. Upon information and belief, Briggs Brothers of Pennsylvania was conducting business on the Project under the Certificate of Authority to Transact Business issued to Briggs Brothers of Louisiana. On February 13, 2024, Briggs Brothers of Louisiana filed its Application for Surrender of Authority to Do Business with the South Carolina Secretary of State.

13. Beginning in March 2023, Briggs Brothers of Georgia entered into a series of seven (7) rental agreements with H&E wherein H&E agreed to furnish equipment, materials, and services for construction which was required by the Prime Contract, in exchange for payment from Briggs Brothers of Georgia (the “Subcontracts”). Copies of the Subcontracts are collectively attached as **Exhibit B**.

14. Upon information and belief, Briggs Brothers of Georgia, Briggs Brothers of Pennsylvania, and Briggs Brothers of Louisiana are one and the same for all intents and purposes, with each acting as alter egos of each other and of Terry Briggs for the express purpose of defrauding creditors. To wit, the Prime Contract and Payment Bond as required by the Miller Act were issued to Briggs Brothers of Pennsylvania while the Subcontracts were issued by Briggs Brothers of Georgia, neither of whom was ever authorized to conduct business in the State of South Carolina.

15. H&E, pursuant to the Subcontracts, provided certain equipment, materials, and services to Briggs Brothers of Pennsylvania and Briggs Brothers of Georgia which were used and incorporated into the Project in furtherance of the Subcontracts and the Prime Contract.

16. In exchange for furnishing the equipment, materials, and services to the Project, Briggs Brothers of Georgia agreed to pay H&E the aggregate amount of \$126,835.31.

17. To date, Briggs Brothers of Georgia has not made any payments to H&E, leaving a balance past due and owing of \$126,835.31.

18. Upon information and belief, Briggs Brothers of Pennsylvania has been paid in full by the Project owner for the work H&E provided to the Project.

19. All conditions precedent have been performed by H&E.

20. Upon information and belief, Briggs Defendants through the actions of Terry Briggs, have acted in bad faith in attempting to prevent H&E from seeking payment under the Payment Bond through the use of various Briggs Brothers entities, all of which were involved in the Project, and all Briggs Defendants were so intermingled such that each of these Defendants has become the alter ego of the other and/or the operations are intertwined such the actions of these Defendants should be regarded as those of an amalgamated or single business enterprise and injustice would result if the entities' acts are not regarded as the acts of the principals.

COUNT I – ACTION AGAINST MILLER ACT PAYMENT BOND
(All Defendants)

21. H&E incorporates paragraphs 1 through 19 above as if fully set forth herein.

22. More than ninety (90) days have expired since H&E last provided any services or materials in connection with the Project.

23. H&E has complied with all requirements of the Miller Act for perfecting a right of action under the Payment Bond, including but not limited to bringing this action within one year after the last day on which H&E furnished any materials or services, or both, to the Project.

24. Pursuant to the terms of the Payment Bond, Briggs Defendants and the Surety are jointly and severally liable to H&E for all amounts due to H&E for all equipment, materials, and services furnished on or for the Project pursuant to the Miller Act Sections 3131 to 3134 of Title

40 of the United States Code (40 U.S.C.A. §§3131 to 3134), such principal damages owed being \$126,835.31, exclusive of interest, costs or attorney's fees.

WHEREFORE, the United States of America, on behalf of and to the use of H&E Equipment Services, Inc., requests a judgment against Defendants, Briggs Brothers Enterprises Corporation of Pennsylvania, Briggs Brothers Enterprises Corporation of Louisiana, Briggs Brothers Enterprises Corporation of Georgia, Terry Briggs and RLI Insurance Company, each jointly and severally, for the sum of at least \$126,835.31 in principal damages, together with pre-judgment interest as allowed by law as well as such other and further relief as the Court deems just and proper.

COUNT II – BREACH OF SUBCONTRACTS
(Briggs Defendants)

25. H&E incorporates paragraphs 1 through 23 above as if fully set forth herein.

26. H&E has fulfilled its contractual obligations to Briggs Defendants.

27. Briggs Defendants materially breached the Subcontracts by failing to pay all amounts due to H&E for equipment, materials, and services furnished on or for the Project.

28. As a direct and proximate result of Briggs Defendants' material breach of the Subcontracts, H&E has incurred principal damages for at least \$126,835.31, for which H&E hereby sues.

WHEREFORE, the United States of America, on behalf of and to the use of H&E Equipment Services, Inc., requests a judgment against Defendant Briggs Brothers Enterprises Corporation of Pennsylvania, Briggs Brothers Enterprises Corporation of Louisiana, Briggs Brothers Enterprises Corporation of Georgia, Terry Briggs, each jointly and severally, for the sum of at least \$126,835.31 in principal damages, together with pre-judgment interest as allowed by law as well as such other and further relief as the Court deems just and proper.

COUNT III – S.C. CODE § 27-1-15 DEMAND
(All Defendants)

29. H&E incorporates Paragraphs 1 – 27 above as if fully set forth herein.

30. On February 13, 2024 and July 19, 2024, H&E sent certified letters to Defendants pursuant to S.C. Code Ann. § 27-1-15 demand payment of the principal amount of \$126,835.31 under the Subcontracts. A copy of the demand is attached as **Exhibit C**.

31. Upon information and belief, Defendants will fail to conduct a reasonable and fair investigation and pay all undisputed amounts within 45 days of receiving the demand. Therefore, H&E is entitled to recover the amounts demanded plus interest at the judgment rate and all attorney's fees.

32. In accordance with S.C. Code Ann. § 27-1-15, H&E seeks payment of all amounts due plus interest and attorney's fees.

COUNT IV- ALTER EGO/VEIL PIERCING
(Briggs Defendants)

33. H&E incorporates paragraphs 1 through 31 above as if fully set forth herein.

34. Briggs Brothers of Pennsylvania, Briggs Brothers of Louisiana, Briggs Brothers of Georgia, and Terry Briggs failed to observe corporate formalities, were undercapitalized, and/or were otherwise so intermingled such that each of these Defendants has become the alter ego of the other and/or the operations are intertwined such the actions of these Defendants should be regarded as those of an amalgamated or single business enterprise and evidence of bad faith, abuse, fraud, wrongdoing, and injustice would result if the entities' acts are not regarded as the acts of the principals.

35. Specifically, while the Payment Bond identifies Briggs Brothers of Pennsylvania as the bonded principal and Terry Briggs as its President, Briggs Brothers of Georgia executed

H&E's Application for Commercial Credit and Contract identifying Terry Briggs as President of that entity. A third entity, Briggs Brothers Enterprises Corporation of Louisiana, is the only entity of the three ever licensed to conduct business in the State of South Carolina. Upon information and belief, Terry Briggs is identified as that agent's Registered Agent by the Louisiana Secretary of State.

36. Any liability imposed on one of these Defendants should be imposed on the other of these Defendants.

WHEREFORE, H&E Equipment Services, Inc., demands judgment for damages against the Defendants, in the principal amount of \$126,835.31 plus interest, pre-judgment and post-judgment, reasonable attorney's fees and costs, as well as such other and further relief as the Court deems just and proper.

Respectfully Submitted,

s/Bryan P. Kelley
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August 29, 2024
Greenville, South Carolina